IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-09-2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.28849 of 2007

M/s.Bossa Nova Tex Pvt Ltd.,
Rep. by its Director: S.Amarish,
CK.21/1A, Rathi Complex, 1st Floor,
Lakhi Chautra., Varanasi. .. Petitioner.

Versus

1.The Commissioner of Customs (Sea Port)
Custom House,
Rajaji Salai, Chennai-600 001.

2.The Deputy Commissioner of Customs,
Gr.7B-Custom House,
Rajaji Salai, Chennai-600 001. .. Respondents.

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to permit clearance of Mulberry Raw Silk consignments covered under Bill of Entry No.518924, dated 31.07.2007, imported by the petitioner under the Sales Contract No.2005 SDS 208, dated 09.08.2005, by assessing the same.

For petitioner : Mr.K.Balasubramanian
For respondent : Mr.T.S.Sivagnanam
Senior Central Government Standing Counsel

O R D E R

Mr.T.S.Sivagnanam, learned Senior Central Government Standing counsel takes notice for the respondents.

2. With the consent of the learned counsels appearing on either side, the writ petition is taken up for final disposal.

3. It is stated that the petitioner is a regular importer of Raw Silk and possesses valid IEC Code No.0705014584 and PAN No.AACCB 6867 F. The petitioner had imported Mulberry Raw Silk from China at the rate of US $ 17.00 per kilogram for 3A grade and US $ 17.50 per kilogram for 4A grade. The dispute is with regard to the payment of customs duty for 9345.910 kilograms of 3A grade of Mulberry Raw Silk. The petitioner has given a Bill of Entry, assessing the cost of Mulberry Raw Silk of 3A grade at US $ 17.00 per kilogram. However, the respondents had asked the petitioner to justify the value given by them at US $ 17.00 per kilogram for Mulberry Raw Silk of 3A grade, stating that contemporaneous imports of Mulberry Taw Silk has been valued at US $ 22 per kilogram.

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4. The learned counsel appearing on behalf of the respondents, had placed before this Court, the orders made in various writ petitions relating to similar issues and had submitted that the imported materials could be ordered to be released by imposing the necessary conditions as stated therein.

5. On such submissions being made by the learned counsels appearing for the parties concerned, the respondents are directed to release the imported Mulberry Raw Silk of 9345.910 kilograms of 3A grade, on the petitioner paying the rate of US $ 17.00 per kilogram and on the petitioner giving a personal bond for the remaining amount at US $ 5 per kilogram as differential customs duty. The petitioner is directed to comply with the said conditions within 15 days from the date of receipt of a copy of this order. On such compliance being made by the petitioner, the respondents are directed to release the imported materials to the petitioner, within 15 days thereafter, subject to the following conditions:

(1)The respondents may proceed with their investigation/assessment.

(2) The petitioner shall co-operate in such investigation/assessment initiated by the respondents.

The writ petition is ordered accordingly. No costs. Consequently, M.P.No.1 of 2007 is closed.

csh

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Commissioner of Customs (Sea Port)
Custom House,
Rajaji Salai, Chennai-600 001.

2.The Deputy Commissioner of Customs,
Gr.7B-Custom House,
Rajaji Salai, Chennai-600 001.

+1 cc to Mr.T.S.Sivagnanam, Advocate Sr.No.57222.

+1 cc to Mr.K.Balasubramaniam, Advocate Sr.No.57088.

MS(CO)
dcp/14.9 Writ Petition No.28849 of 2007

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